



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Joseph D. Smith, AICP, Planning and Community Development Director
Afshin Atapour, Assistant Planner
Via CJ Johnson, City Manager

DATE: June 1, 2020

SUBJECT: Urgency Ordinance Approving a Temporary Streamlined Review Process for Commercial A-Frame Signage Temporarily Located in the Right-of-Way Adjacent to all Commercial Zones

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council adopt an urgency ordinance (Attachment A) approving a temporary streamlined review process for commercial A-frame signage temporarily located in the right-of-way adjacent to all commercial zones.

DISCUSSION/ANALYSIS:

On May 18, 2020, the City Council considered various options to further respond to the coronavirus' (COVID-19) impact on the local business community. At the request of the Del Mar Village Association (DMVA), the City Council directed staff to prepare an urgency ordinance to enable an administratively reviewed Encroachment Permit to allow for A-frame commercial signage to be placed in the public right-of-way for a limited time.

Currently, the City's sign code allows each business to have one approved A-frame sign via the City's Administrative Sign Review Permit (ASR) process; however, the sign must be placed entirely on private property. Any signage that extends into the public right-of-way would technically require the receipt of a Sign Encroachment Permit (SEP). SEP's require review and approval by the Planning Commission.

The proposed urgency ordinance would temporarily modify the City's processing of A-frame signage encroachments into the public right-of-way as follows:

- That any business without a City-approved A-frame sign and seeking A-frame signage may simultaneously request approval of their proposed A-frame through the City's standard Administrative Sign Review (ASR) process. ASRs are administratively approved and subject to a ten working day objection period. The

City Council Action:

ASR fee is \$340. Businesses with a City-approved A-frame sign may request an encroachment;

- That the SEP requirement contained in DMMC Chapter 30.84.075(A) and (B) be provisionally modified to require only authorization and approval of a Short-Term Minor Encroachment Permit (EP) issued by the City Manager. These requests would utilize a streamlined EP application form. The EP fee is \$370.
- That the Short-Term Minor EP shall contain appropriate conditions and provisions to ensure public health and safety;
- That the EP application will require proof of liability insurance certificate with the City of Del Mar listed as additional insured; and
- That the urgency ordinance, and all temporary allowances for A-frames to be placed in the public right-of-way authorized by an EP, shall expire on October 6, 2020 (same expiration as the Council's previous urgency ordinance allowing an increase in temporary commercial signage).

FISCAL IMPACT:

The proposed urgency ordinance would not result in a fiscal impact.

ENVIRONMENTAL REVIEW:

The adoption of an urgency ordinance has been determined to be Statutorily Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15269(c) in that the action is necessary to prevent or mitigate an emergency resulting from impacts to the City as a result COVID-19.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

This is an operational item.

ATTACHMENTS:

Attachment A – Urgency Ordinance for A-Frame Commercial Signage

ORDINANCE NO. XXX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, APPROVING A TEMPORARY STREAMLINED REVIEW PROCESS FOR COMMERCIAL A-FRAME SIGNAGE TEMPORARILY LOCATED IN THE RIGHT-OF-WAY ADJACENT TO ALL COMMERCIAL ZONES

WHEREAS, on February 14, 2020, the County of San Diego Board of Supervisors declared a local health emergency in the County of San Diego, California due to the public health threat of the Coronavirus (COVID-19); and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a state of emergency in the State of California due to the public health threat of COVID-19; and

WHEREAS, on March 14, 2020, the Del Mar City Council proclaimed a Local Emergency, as defined by Government Code section 8558(c), in the City of Del Mar due to the COVID-19 pandemic; and

WHEREAS, the Del Mar City Council directed staff to temporarily close City Hall and other City meeting facilities to the public and to cancel all scheduled public meetings until further direction is provided; and

WHEREAS, on March 19, 2020, Governor Gavin Newsom issued an Executive Order (N-33-20) for all non-essential workers to stay-at-home (shelter-in-place), for individuals to practice “social distancing” of at least six feet from other individuals, for individuals to avoid congregating in groups of 10 or more, and generally for individuals to avoid contact with others in order to protect the health and well-being of all Californians and to slow the spread of COVID-19; and

WHEREAS, leaders at the global, national, state, regional, and local levels all continue to emphasize that it is critical for public agencies to immediately take any and all steps necessary to minimize the potential for COVID-19 to continue to spread; and

WHEREAS, several businesses in the City that primarily serve the community and visitors, including restaurants, cafes, retail, retail service, and hotels are experiencing a significant financial impact as a result of COVID-19, and particularly the “shelter-in-place” order; and

WHEREAS, several businesses in the City have temporarily closed or are providing limited services due to the “shelter-in-place” order, and uncertainty exists as to when the “shelter-in-place” order will be lifted; and

WHEREAS, an increase in closed businesses, either temporarily or permanently, along the City's public streets could lead to excessive blight of the City's commercial areas; and

WHEREAS, the business closures and limitation of services due to COVID-19 is having an immediate impact on several of the City's most significant revenue sources, including Transient Occupancy Tax (TOT), Sales Tax, parking operations, and City facility rentals; and

WHEREAS, the business community has indicated that providing temporary modifications to commercial signage for advertising purposes would help with recovery efforts for businesses once the "shelter-in-place" order is modified or lifted; and

WHEREAS, commercial A-frame signage is one type of commonly used signage by the business community and regulated by Del Mar Municipal Code (DMMC) sections 30.84.040 and 30.84.050. Pursuant to these sections, one A-frame sign may be approved for each individual business and is subject to the following regulations: 1) size is limited to a maximum of 10.5 square feet, with maximum dimensions of 36 inches in width by 42 inches in height; 2) display may only occur during open business hours and shall be removed at the close of business each day; 3) sign shall be located entirely on private property, on the premises of the business establishment for which advertising is provided; 4) sign shall be placed so as to not block access to a parking stall, drive aisle or pedestrian travel way; 5) message/copy shall be limited to changeable message/copy for the advertisement of products or services available in the establishment for which advertising is provided; 6) frame shall be composed of a hinged A-frame structure; 7) sign shall be devoid of any strobe, blinking or flashing lights, electronic animation, or electronic reader copy, or any flags, balloons, pendants, flyers, handouts or other attachments; and 8) sign shall be anchored or secured to maintain the sign in a stable, upright position; and

WHEREAS, DMMC section 23.09.040 requires that the display of a new or replacement A-frame sign shall first be subject to the receipt of an approved Administrative Sign Review Permit (ASR); and

WHEREAS, DMMC section 30.84.075 states that no sign shall be installed, posted, erected or maintained so as to encroach within a public right-of-way without the prior receipt of a Sign Encroachment Permit authorized by the Del Mar Planning Commission; and

WHEREAS, on May 22, 2020, the San Diego County Public Health Officer provided an order to allow in-person dining and retail service with social distancing and sanitization protocols in place; and

WHEREAS, in light of the emergency declarations made by Federal, State, County, and the City governments in response to the COVID-19 pandemic, and the impacts of the pandemic on the City, the City has, pursuant to Government Code

section 36937(b) identified facts constituting an urgency condition for which action is required for immediate preservation of the public peace, health or safety, provided notice of and conducted a public hearing, and has received written comments and oral testimony from members of the public.

NOW, THEREFORE, the City Council of the City of Del Mar does hereby ordain as follows:

SECTION ONE:

1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this urgency ordinance.
2. The City Council finds that there is a current and immediate threat to the public safety, health, and welfare due to significant financial impacts of the COVID-19 pandemic on businesses, contributing to an immediate negative impact on several of the City's revenue sources including TOT, sales tax, and parking operations; and contributing to a potential increase in commercial vacancies along public streets which could lead to excessive blight.

SECTION TWO:

1. That the A-frame signage placement restriction contained in DMMC section 30.84.050(7)(b) is hereby provisionally modified from being located entirely on private property to be allowed in the public right-of-way for City-approved A-frame signage. This modification shall be in effect until October 6, 2020.
2. That any business without City-approved A-frame signage and seeking A-frame signage must first obtain approval through an Administrative Sign Review (ASR) process under DMMC Chapter 23.09.
3. That the A-frame Sign Encroachment Permit requirement contained in DMMC sections 30.84.075(A) and (B), requiring Sign Encroachment Permits to be authorized and approved by the Del Mar Planning Commission, is hereby provisionally modified to instead require only authorization and approval of a Minor Encroachment Permit for a Short-term Impact (Short-Term Minor Encroachment Permit) issued by the City Manager under DMMC Chapter 23.28.
4. That the Short-Term Minor Encroachment Permit shall contain appropriate conditions and provisions to ensure public health and safety including, but not limited to, requiring attachment of a proof of liability insurance certificate with the City of Del Mar listed as additional insured.

SECTION THREE:

The adoption of an urgency ordinance is Statutorily Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15269(c) in that the action is

necessary to prevent or mitigate an emergency resulting from impacts to the City as a result of COVID-19; and

SECTION FOUR:

The urgency ordinance was considered by the City Council on June 1, 2020.

SECTION FIVE:

The City Clerk is directed to prepare and have published a summary of this Ordinance within fifteen (15) days following adoption indicating votes cast in compliance with Government Code § 36933.

SECTION SIX:

If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

SECTION SEVEN:

This Ordinance shall become effective immediately following its passage and adoption by a four-fifths (4/5) vote of the City Council as an urgency ordinance pursuant to Government Code § 36937(b).

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California at the Regular Meeting held this 1st day of June, 2020.

Ellie Haviland, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No.____, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 1st day of June, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ashley Jones, Administrative Services
Director/City Clerk
City of Del Mar